

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

Tinia Carol Holder,)	C/A No.: 0:14-cv-4393 DCN
)	
Plaintiff,)	<u>ORDER</u>
)	
vs.)	
)	
Angela Rawski, Warden; Patricia Yeldell,)	
Associate Warden; and Dr. Benjamin Lewis,)	
Physician,)	
)	
Defendants.)	
)	

The above referenced case is before this court upon the magistrate judge's recommendation that plaintiff's motion to dismiss case be conditionally granted, and that all other pending motions be terminated.

This court is charged with conducting a de novo review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. Thomas v Arn, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).¹ **No objections**

¹In Wright v. Collins, 766 F.2d 841 (4th Cir. 1985), the court held "that a pro se litigant must receive fair notification of the consequences of failure to object to a magistrate judge's report before such a procedural default will result in waiver of the right to appeal. The notice must be 'sufficiently understandable to one in appellant's circumstances fairly to appraise him

have been filed to the magistrate judge's report and recommendation.

A de novo review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's report and recommendation is **AFFIRMED**, plaintiff's motion to dismiss case is **GRANTED**, and this case is **DISMISSED** without prejudice upon the following conditions:

- (1) payment of the defendants' costs in this action if plaintiff files an action based on or including the same claims against the same defendants in the future (see Fed.R.Civ.P. 41(d));
- (2) any new action based on or including the same claims against the same defendants shall be filed within the applicable statute of limitations but no later than one year after plaintiff's release from incarceration; and
- (3) any discovery materials or other evidence obtained during the court of the litigation of this matter may also be used in any subsequent matter.

IT IS FURTHER ORDERED that all other pending motions are hereby terminated.

AND IT IS SO ORDERED.



David C. Norton
United States District Judge

October 14, 2015
Charleston, South Carolina

of what is required." Id. at 846. Plaintiff was advised in a clear manner that his objections had to be filed within ten (10) days, and he received notice of the consequences at the appellate level of his failure to object to the magistrate judge's report.

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.